

Date signed May 12, 2010



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt**

IN RE:	:	
KENYA M. SHEARD	:	Case No. 09-28360PM
Debtor	:	Chapter 7

KENYA M. SHEARD	:	
Plaintiff	:	
vs.	:	Adversary No. 09-0795PM
BANK OF AMERICA, N.A.	:	
BAC HOME LOAN SERVICING, LP	:	
KENNETH D. LEWIS, CEO	:	
JOE L. PRICE, CFO	:	
Defendants	:	

MEMORANDUM OF DECISION

This matter came before the court for a hearing on damages following the entry by the Clerk of a default as to the Defendant, Bank of America, N.A. The Complaint seeks the release of liens on property located at 2923 Berrywood Lane, Upper Marlboro, Maryland, said to secure a note payable to Bank of America, N.A., as well as compensatory damages of \$349,900.00 and punitive damages of \$4,198,800.00.

Upon further review of the file prior to the scheduled hearing on damages, the court found that service of process had not been made upon Bank of America, N.A., in accord with the requirements of Fed. Rule of Bankruptcy Proc. 7004(h)(2), that provides:

Rule 7004. Process; Services of Summons, Complaint

* * * * *

(h) Service of process on an insured depository institution.

Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless--

(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first-class mail sent to an officer of the institution designated by the institution.

Unlike nearly every other bankruptcy rule, this section became law as a result of an act of Congress, specifically § 114 of the Bankruptcy Reform Act of 1994, Public Law 103-394. The court has no discretion to waive this provision.

The Clerk will reissue a Summons for a Pre-Trial Conference to be held **July 14, 2010, at 10:00 a.m.**, and the court assumes that the Debtor will serve the Summons and Complaint timely upon the Defendants.

cc:

Kenya M. Sheard, 2923 Berrywood Lane, Upper Marlboro, MD 20774

Steven H. Greenfeld, Trustee, 7910 Woodmont Avenue, Suite 760, Bethesda, MD 20814

United States Trustee, 6305 Ivy Lane, #600, Greenbelt MD 20770

Michael E. Blumenfeld, Esq., Miles & Stockbridge, 10 Light Street, Baltimore, MD 21202

Brian T. Moynihan, CEO, Bank of America, NA, 100 N. Tryon Street, Charlotte, NC 28255

Kenneth D. Lewis, President, Bank of America, NA, 100 N. Tryon Street, Charlotte, NC 28255

Joe L. Price, CFO, Bank of America, NA, 100 N. Tryon Street, Charlotte, NC 28255

The Corporation Trust Inc., 300 E. Lombard Street, Baltimore, MD 21202

End of Memorandum